

Agenda

Item #2



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commissioners

From: Jonathan Wayne, Executive Director

Date: January 16, 2012

Re: Request for Investigation by Michael G. Hein concerning Special Election E-Mail

The Ethics Commission received the attached request for an investigation from Michael G. Hein concerning an e-mail communication sent by the Christian Civic League of Maine (CCLM). Mr. Hein was formerly on the staff of the CCLM, and he is now requesting an investigation of his former employer and a political action committee (Marriage Matters in Maine) formed by the CCLM.

Complaint by Michael G. Hein

The e-mail related to a special election held on November 8, 2011 to fill a vacancy in the Maine House of Representatives, District 24 (Dexter and nearby communities). Mr. Hein says that on Friday, November 4, 2011, the CCLM sent "an e-mail alert" to the organization's members inviting them to attend an event at which literature would be distributed to support Raymond A. Wallace in the special election. People receiving the e-mail were asked to come to the Noah's Landing restaurant in Dexter at 9:00 a.m. on November 5, 2011 (the Saturday before the election).

Mr. Hein questions whether Mr. Wallace's campaign or the CCLM's PAC should have reported the e-mail communication as an in-kind contribution in their campaign finance reports, which they did not.

Reporting Requirements for PACs and Candidates

Generally, when an organization makes a payment to provide a good or service to a PAC or candidate for the purpose of influencing an election, the PAC or candidate is required to disclose its receipt of an in-kind contribution in its campaign finance reports. (21-A M.R.S.A. §§ 1017(5) & 1060(4)) Similarly, when someone is making an expenditure to promote a candidate in consultation with the candidate, the candidate has received an in-kind contribution. (21-A M.R.S.A. § 1015(5))

Nevertheless, the Maine Legislature has created a large number of exceptions to the terms "contribution" and "expenditure." For example, individuals may volunteer their time for a candidate. They may spend up to \$100 per election on invitations, food, beverages, and

travel in the course of volunteering for a candidate. Party committees may spend money on a "slate card" promoting three or more candidates. Even if candidates or their campaign committees are consulted on these activities, the candidates have not received an in-kind contribution because these activities are not considered a "contribution" or an "expenditure" under Maine's campaign finance law.

One of the exceptions to the term "expenditures" is for membership communications from a membership organization to its members:

(3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;

(21-A M.R.S.A. § 1012(3)(B)(3)) So, when a membership organization has spent money on a communication to its members to promote a candidate, the Maine Legislature has decided that the organization has not made an "expenditure" that must be disclosed in campaign finance reports. If that communication has been made at the request of a candidate or a PAC, the staff's interpretation is that the candidate or PAC is not required to report that paid activity as a contribution.

Factual Information Provided by Raymond Wallace and the CCLM

On December 29, 2011, I sent written requests for information to Rep. Wallace and the Executive Director of the CCLM concerning the CCLM's activities in support of Rep. Wallace. The information I received was that the event on November 5, 2011 that began at Noah's Landing Restaurant was organized by Rep. Wallace's campaign. The literature distributed was paid for by Rep. Wallace's campaign.

Carroll L. Conley, Jr., the Executive Director of the CCLM, explains in his response that he heard about the November 5 literature distribution event from a member of the organization's board of directors. He asked the chair of the organization's board if it would be helpful to promote the event. Mr. Conley then called Rep. Paul Davis, who was providing some volunteer assistance to the Wallace campaign about the event.

Mr. Conley says that he spent about 10 minutes on the phone and a paid staff writer spent less than 30 minutes preparing and posting the email. He estimates that the paid staff time of the CCLM in connection with the e-mail to members to have a value of \$20 to \$25.

Mr. Conley states that paid employees of the CCLM engaged in no other activities promoting Rep. Wallace. He also states that the CCLM spent no other money promoting Rep. Wallace.

Comments by Dave Pearson

Dave Pearson was the opponent of Raymond Wallace in the special election. On January 7, 2012 Mr. Pearson wrote a letter to the Commission staff conveying his unspent Maine Clean Election Act funds for the special election. The letter mentions this matter and is attached for your consideration.

In his letter, Mr. Pearson discusses statements he attributes to the CCLM that he believes were “outside the bounds of an honor-bound” campaign. The Commission staff appreciates that candidates and their supporters sometimes feel quite strongly that the Commission should take action against political speech that they deem false or misleading. This is outside the jurisdiction of the Commission, which is primarily a campaign finance disclosure agency.

Staff Analysis and Recommendation

The e-mail from the CCLM appears to be a “communication by [a] membership organization ... to its members ...” Therefore, expenses incurred by the CCLM for the communication are not an “expenditure” that the CCLM must report. Even if the expenses were incurred in coordination with a candidate or PAC, the Commission staff does not believe that they need to be reported as an in-kind contribution.

The Commission staff therefore recommends that you take no action on Mr. Hein’s request. Thank you for your consideration of this memorandum.

RECEIVED

DEC 21 2011

Maine Ethics Commission

December 21, 2011

State of Maine
Maine Commission on Governmental Ethics and Election Practices
Attn: Jonathan Wayne, Executive Director
135 State House Station
Augusta, Maine 04333-0135

Dear Mr. Wayne,

I request the Maine Commission on Governmental Ethics and Election Practices begin an investigation regarding the **Christian Civic League of Maine's** political action committee (PAC), the **Christian Action League** (doing business as "**Marriage Matters in Maine**").

Specifically, the organization sent an e-mail alert on November 4, 2011, ahead of the Special Election in Maine House District 24 last month. The e-mail, sent to hundreds of Maine residents and the media, stated the following:

Unashamed Christian candidate urgently needs your help

Ray Wallace, an unashamed Christian candidate running for House District 24, needs your help to distribute campaign literature Saturday morning.

The liberals are aggressively going after him and this seat which serves the people of Athens, Charleston, Dexter, Garland, Harmony and Ripley. It would be a great blessing if other Christians will rise to help.

Date: Saturday, November 5th, 9 am
Meeting Location: Noah's Landing
Route 7/16 Russ Street
Dexter, ME 04930-1509

Christian Civic League Board member Matt Boucher will be there lending a hand. If you have questions, please contact Shawn Roderick at shawnroderick@hotmail.com

Please keep Ray in your prayers.

The e-mail text was subsequently reported upon at:
<http://ericrussell.bangordailynews.com/2011/11/05/faith-and-the-race-for-maines-house-district-24-seat/> and <http://www.dirigoblue.com/2011/11/ccim-playing-the-victim-card-in-the-house-district-24-special-election/>

There is no recording of this in-kind contribution of time, effort and resources by the Christian Civic League of Maine's PAC, nor of any receipt of this in-kind contribution by the Republican candidate, Raymond Wallace, on his recently filed 11 Day Pre-Election HD 24 Report.

The inclusion of "...needs your help..." twice in the e-mail alert specifies that this is a call to action and endorsement of the candidate, which should necessitate inclusion of the e-mail alert/call to action on the organization's PAC report and the candidate's filings (if the candidate was aware of the e-mail alert/call to action).

The organization, by definition, spent money to promote the candidate (even if only a nominal amount) and used paid staff time to promote the candidate.

The inclusion of this paragraph: "Christian Civic League Board member Matt Boucher will be there lending a hand. If you have questions, please contact Shawn Roderick at shawnroderick@hotmail.com" would indicate coordination between the organization (and thus, the PAC) and the candidate's campaign.

The Commission should inquire with the candidate as to whether he knew of the event and who paid for the material that was present at the event. I have no knowledge of whether this was the case, and I did not participate in the event. I was on the distribution list for the e-mail alert/call to action and did receive it by e-mail.

Please contact me with any questions you may have of me regarding this request for the Maine Commission on Governmental Ethics and Election Practices to begin an investigation. Thank you in advance for your assistance on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael G. Hein", with a long horizontal flourish extending to the right.

Michael G. Hein
43B Green Street
Augusta, Maine 04330
(207) 485-3396
michael.g.hein@gmail.com



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

December 29, 2011

By E-Mail and Regular Mail

Hon. Raymond Wallace
83 Pine Street
Dexter, ME 04930

By E-Mail and Regular Mail

Carroll L. Conley, Jr., Exec. Director
Christian Civic League of Maine
12 Sandy Beach Road #19
Glenburn, ME 04401

Dear Rep. Wallace and Mr. Conley:

The Maine Commission on Governmental Ethics and Election Practices received the attached request for an investigation from Michael G. Hein concerning campaign activities which Mr. Hein believes should have been included in campaign finance reports filed by Rep. Wallace and the Christian Civic League's political action committee.

Commission's Consideration of this Matter

The members of the Commission will meet next on Wednesday, January 25, 2012 at 9:00 a.m. At the meeting, the Commissioners are scheduled to determine whether to conduct the investigation requested by Mr. Hein. I would recommend that you attend the meeting, if possible, to respond to any questions by the Commissioners.

Requested Information

As I mentioned by telephone, the Commission staff would like to gather some preliminary information in advance of the meeting to assist the Commissioners in their consideration of Mr. Hein's request. Below I have listed some questions for each of you. Please answer the questions in separate letters no later than Thursday, January 12, 2012. I would be pleased to receive the information by U.S. Mail or by e-mail to Jonathan.Wayne@maine.gov.

Information Requested from Carroll L. Conley, Jr.

Question #1: Did you spend time as a paid employee of the Christian Civic League of Maine (CCLM) communicating with CCLM members to invite them to the November 5, 2011 literature distribution? If so, can you please estimate the value of your time for that activity?

Question #2: Was the November 5 event organized by CCLM, or by some other organization such as the local Republican Party committee, Rep. Wallace or individuals involved with Rep. Wallace's campaign?

Hon. Raymond Wallace, Carroll J. Conley, Jr.
Page 2
December 29, 2011

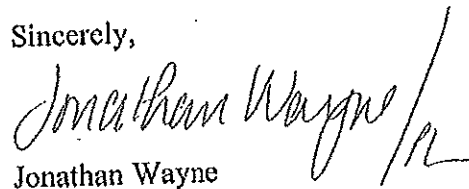
- Question #3: What individual or organization paid for the literature that was distributed at the event?
- Question #4: Who provided the literature that was distributed at the November 5 event?
- Question #5: Did CCLM spend any money other than your paid staff time, if any, in connection with the November 5 event?
- Question #6: To the best of your knowledge, did Raymond Wallace, or any individual(s) involved with his campaign, or their agents (any person who had been authorized to conduct activities to promote his candidacy) know of the November 5 event or that CCLM was inviting members to the event?
- Question #7: Did you spend any other time as a paid employee of CCLM promoting Raymond Wallace's candidacy in the November 8, 2011 special election? If so, please describe the activities and whether Raymond Wallace, or any individual(s) involved with his campaign, or their agents knew that you were conducting that activity.

Information Requested from Rep. Wallace

- Question #1: To the best of your knowledge, was the November 5 literature distribution event organized by any individual(s) involved in your campaign?
- Question #2: Did you or anyone involved with your campaign pay for the literature that was distributed at the November 5, 2011 literature distribution event?
- Question #3: Did you or anyone involved with your campaign provide the literature that was distributed at the November 5 event?
- Question #4: Did you or, to the best of your knowledge, did any individual(s) involved with your campaign, or their agents (any person who had been authorized to conduct activities to promote your candidacy) know of the November 5 event?

Thank you for your cooperation with this request. If you have any questions concerning this request or the Commission's procedures, please call me at 287-4179. I will be returning to the office on the afternoon of Tuesday, January 3, 2012.

Sincerely,



Jonathan Wayne
Executive Director

cc: Michael G. Hein

Wayne, Jonathan

From: Carroll Conley [clcll@yahoo.com]
Sent: Thursday, January 12, 2012 1:37 PM
To: Wayne, Jonathan; Lavin, Paul
Subject: CCLM response
Attachments: Ethics response.doc

Jonathan and Paul,
Would you like me to bring the original by tomorrow? I had hoped to be down today, but weather did not permit. Please call if you have any questions (659-6447).

Carroll L. Conley, Jr.
Executive Director



Information Requested from Carroll L. Conley, Jr.

Question #1: Did you spend time as a paid employee of the Christian Civic League of Maine (CCLM) communicating with CCLM members to invite them to the November 5, 2011 literature distribution? If so, can you please estimate the value of your time for that activity?

I spent approximately 10 minutes on the phone to get the specifics as far as date, time and location, and contact info. My staff writer spent less than 30 minutes preparing and posting the email. My salary is \$55,000 and the aforementioned staff person makes \$1000/month which calculates to around \$20/hour: value \$20-\$25 ?

Question #2: Was the November 5 event organized by CCLM, or by some other organization such as the local Republican Party committee, Rep. Wallace or individuals involved with Rep. Wallace's campaign?

The event was not organized by the CCLM, and I do not know who organized this event.

Question #3: What individual or organization paid for the literature that was distributed at the event?

I do not know.

Question #4: Who provided the literature that was distributed at the November 5 event?

I do not know.

Question #5: Did CCLM spend any money other than your paid staff time, if any, in connection with the November 5 event?

No

Question #6: To the best of your knowledge, did Raymond Wallace, or any individual(s) involved with his campaign, or their agents (any person who had been authorized to conduct activities to promote his candidacy) know of the November 5 event or that CCLM was inviting members to the event?

To my knowledge, Ray Wallace knew nothing of the email I sent out. When I found out from Matt Boucher (our board member) about the drop, I asked Bob Emrich (our chair) if it would be helpful to promote the event. I then contacted Rep. Paul Davis to get details about the drop. I do not remember if I even specifically told him I was going to do an email blast to our list.

Question #7: Did you spend any other time as a paid employee of CCLM promoting Raymond Wallace's candidacy in the November 8, 2011 special election? If so, please describe the activities and whether Raymond Wallace, or any individual(s) involved with his campaign, or their agents knew that you were conducting that activity.

No

**IRWIN
&
TARDY
MORRIS**

William P. Logan
wlogan@itmlaw.com

159 Main Street
P.O. Box 476
Newport, Maine 04953

207.368.2828 T
207.368.2822 F

January 12, 2012

Jonathan Wayne, Executive Director
Commission on Governmental Ethics
and Election Practices
135 State House Station
Augusta, ME 04333-0135

Re: *Honorable Raymond Wallace*

Dear Jonathan:

I am assisting Representative Wallace with your request for information related to the Special Election in HD 24. Below please find the responses from Rep. Wallace to the questions posed in your letter dated December 29, 2011.

1. The November 5 literature distribution event was organized by Rep. Wallace's campaign.
2. The campaign paid for the literature for the event. Rep. Wallace disclosed the expenditure in his 11-day pre-general report as payment to AMB Signs.
3. All literature used in the event was provided by Rep. Wallace's campaign.
4. As the foregoing responses show, Rep. Wallace knew of the November 5 event.

If there are any other questions you would like an answer to prior to the January 25, 2012 Commission meeting, please let me know.

Sincerely,

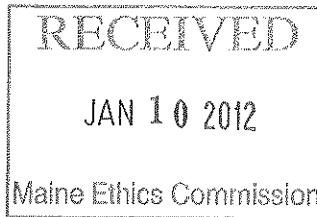


William P. Logan, Esq.

cc: Hon. Raymond Wallace
Paul Lavin

January 7, 2012

Tyler Backus
Candidate Registrar
Maine Ethics commission
45 Memorial Circle
Augusta, ME 04333



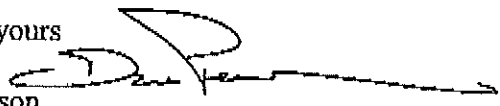
RE: House
District 24 Race

Dear Tyler;

Per your communication of December 27, 2011, I am enclosing a check in the amount of \$5 to close the books on my campaign for House District Seat 24. Thank you for your help.

I am also aware that the Ethics Commission is requesting information for a hearing on whether the actions of the Maine Christian Civic League working for the Wallace campaign were appropriate. I congratulate the Commission on making this inquiry since I personally felt that this last-minute effort with some very unfounded and unfair statements was outside the bounds of an honor-bound campaign. If you are interested the Board may contact Mrs. David Blake who was a waitress at Noah's Landing restaurant in Dexter on the Sunday morning when the meeting was held. She found the event to be "disgusting" (she was a supporter of my candidacy) and also told me that Ray Wallace and his wife were there. At the polls, Ray told me that he did not know about the League's involvement so I was a bit confused by this. I did contact MCCL and ask for an explanation of why I was apparently considered "insufficiently Christian" and what evidence they had that my campaign was out to "get" Ray Wallace but my inquiry was ignored as well as a communication I had questioned an on-air broadcast that made up a story that I had "interjected gay marriage into the race." Other candidates have told me that the CCL regularly gets away with this form of attack and is never called to account by the Commission. If possible, might I be allowed to attend this hearing?

Sincerely yours



Dave Pearson
230 Silvers Mills Road
Dexter, ME 04930

dbpearson@mainestream.us 207-924-5035 Work phone 876-2814